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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/509,377	08/28/2000	Sergey Matasov		9553

7590 02/12/2007
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EXAMINER

LEUBECKER, JOHN P

ART UNIT	PAPER NUMBER
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3739

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 09/509,377	Applicant(s) MATASOV, SERGEY	
	Examiner John P. Leubecker	Art Unit 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,5,10-13,15,17,18,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,5,10-13,15,17,18,21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Specification

1. The substitute specification filed August 10, 2005 has been approved and entered into the application.
2. The disclosure is objected to because of the following informalities: on page 1, line 17, "0000-00-00" is improper.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 11-13, 15, 17, 18 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 11, term "the tip" lacks antecedent basis.

As to claim 12, 13, 15 and 17, these claims depend from canceled claims 2, 3 and 6.

As to claim 18, terms "the biopsy forceps", "the distal end" and "the hermetic tube" all lack antecedent basis.

As to claim 22, this claim depends from canceled claim 6. Furthermore, terms "the distal preservative" and "the tip" lack antecedent basis.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States.

6. Claims 1, 4, 5, 10, 11, 21 and 22 are rejected under 35 U.S.C. 102(d) as being anticipated by Matasov (Inventors Certificate SU 1522466).

Matasov discloses an endoscopic tube (3) comprising a disposable cartridge (4) located on the distal part of the endoscopic tube and formed of a compact cylinder (7) gathered by pleats with an unverted end which is coupled with and held on the distal part of the tube (at 9). Inherently there is a gap between the cylinder and the endoscopic tube and the endoscopic is sealed on its distal end. A shell/anal dilator (19) contains at least a portion of the cylinder. The endoscopic tube (3) inherently comprises an outer protective tube which meets the limitation of a preservative hermetically fixed to the distal tip and proximal part of the tube. The tip (6) inherently has a protective glass by nature of the Matasov device being an endoscope. As to a channel (claim 21), note third full paragraph of page 1 of the original specification which describes the endoscope of Matasov (SU 1522466) as having a gas and liquid supply channel.

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matasov in view of Avitall (U.S. Pat. 5,441,483).

Matasov discloses a bendable distal portion but fails to disclose the particulars of the bending mechanism. Since any bending mechanism could be used in the endoscope of Matasov without any effect of the operation of the disclosed device, it would have been obvious to one of ordinary skill in the art to have provided any known bending mechanism in the Matasov endoscope. Avitall discloses a bending mechanism that incorporates internal transverse pleats in the external cover, which are directed inwards (note 50, Fig. 1A).

9. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matasov in view of Wilk et al. (U.S. Pat. 5,396,879).

Matasov discloses a bendable distal portion (indicated by the bending control knob on control block 2) but fails to disclose the particulars of the bending mechanism. Since any bending mechanism could be used in the endoscope of Matasov without any effect of the operation of the disclosed device, it would have been obvious to one of ordinary skill in the art to have provided any known bending mechanism in the Matasov endoscope. Wilk et al. disclose a bending mechanism that incorporates solenoids or hydraulic mechanisms in the distal end of the endoscope for the purpose of bending (note Figure 1 and col.3, lines 47-53). At least the solenoid would meet the limitation of “executing cylinder-piston units” since a solenoid would comprise a plunger within a cylinder.

Allowable Subject Matter

10. Claims 12, 17 and 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

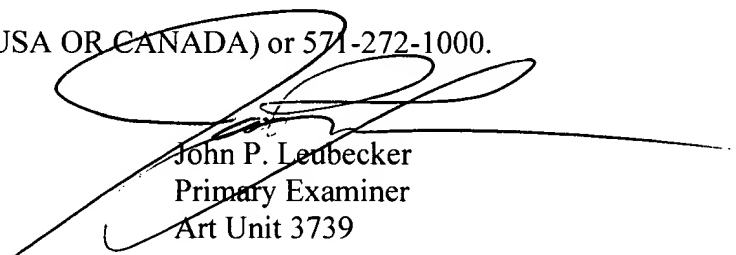
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Leubecker whose telephone number is (571) 272-4769. The examiner can normally be reached on Monday through Friday, 6:00 AM to 2:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



John P. Leubecker
Primary Examiner
Art Unit 3739

jpl